CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:		CCRB Case #:		Force	$\overline{\checkmark}$	Discourt.		U.S.
Bernardo Gutierrez		Team # 5		201106250	Ø	Abuse		O.L.		Injury
Incident Date(s)		Location of	f Incident:		F	Precinct:	18	Mo. SOL	E	EO SOL
Sunday, 05/15/2011 9:53 PM, W 05/25/2011	ednesday,	§ 87(2)(b)				41	11	/15/2012	11.	/15/2012
Date/Time CV Reported		CV Repor	ted At:	How CV Reported:		Date/Time	Rece	ived at CCF	₹B	
Sun, 05/15/2011 11:29 PM		CCRB		Call Processing System		Sun, 05/15	/2011	11:29 PM		
Complainant/Victim	Type	H	Home Addre	ess						
Witness(es)		I	Iome Addro	ess						
Subject Officer(s)	Shield	7	axID	Command						
1. Officers				PBBX						
2. POM Ahsan Zafar	03773	9	49822	PBBX						
3. POM Kevin Gall	05618	9	48994	PBBX						
Officer(s)	Allegation	on				Inve	stiga	tor Recon	nmei	ndation
A.POM Ahsan Zafar	in and/or ru		Officer Ahsa	in front of ^{§ 87(2)(b)} an Zafar spoke obsce	enely	ý				
B.POM Ahsan Zafar				nt of § 87(2)(b) threatened to damage	§ 87 (b)	in (2)				
C.POM Ahsan Zafar	Abuse: C	On May 15, x, Officer A	2011, in from Ahsan Zafar t	nt of § 87(2)(b) threatened to arrest §	87(2))	in				
D.POM Ahsan Zafar	Abuse: C	On May 15, x, Officer A	2011, in fro Ahsan Zafar t	nt of ^{§ 87(2)(b)} frisked ^{§ 87(2)(b)}		in				
E.POM Ahsan Zafar		Abuse: On May 15, 2011, in front of \$\frac{\mathbb{S}}{87(2)(b)}\$ in the Bronx, Officer Ahsan Zafar searched \$\frac{\mathbb{S}}{87(2)(b)}\$								
F.POM Kevin Gall	in		Officer Kev	in front of § 87(2)(b) in Gall spoke obscen	ely					
G. Officers		the Bronx,		in front of § 87(2)(b) ke obscenely and/or i	rude	ly				
H.POM Ahsan Zafar	Abuse: C	in th	2011, § 87(2)(b e Bronx, Of) ficer Ahsan Zafar qu	estic	oned				

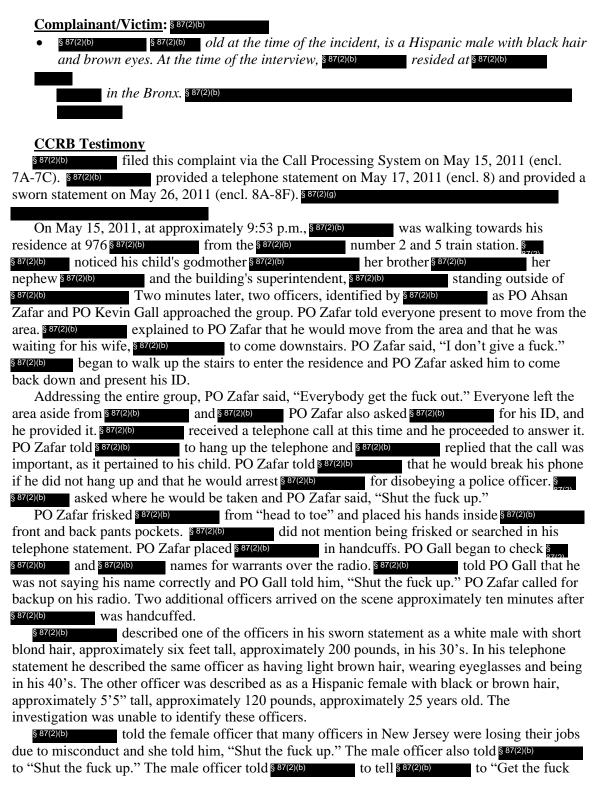
Case Summary

§ 87(2 Bro	call processing system on May 15, 2011, in regard to the same incident (encl. 7A-7C).
•	Allegation A- Discourtesy: On May 15, 2011, in front of \$87(2)(b) in the Bronx, Officer Ahsan Zafar spoke obscenely and/or rudely to \$87(2)(b) and \$87(2)(b) \$87(2)(g)
•	Allegation B- Abuse of Authority: On May 15, 2011, in front of \$87(2)(b) in the Bronx, Officer Ahsan Zafar threatened to damage \$87(2)(b) s property. \$87(2)(g)
•	Allegation C- Abuse of Authority: On May 15, 2011, in front of \$87(2)(b) in the Bronx, Officer Ahsan Zafar threatened to arrest \$87(2)(b) \$87(2)(g)
•	Allegation D- Abuse of Authority: On May 15, 2011, in front of \$87(2)(b) in the Bronx, Officer Ahsan Zafar frisked \$87(2)(b)
•	Allegation E- Abuse of Authority: On May 15, 2011, in front of \$87(2)(b) in the Bronx, Officer Ahsan Zafar searched \$87(2)(b) \$87(2)(g)
•	Allegation F- Discourtesy: On May 15, 2011, in front of \$87(2)(5) in the Bronx, Officer Kevin Gall spoke obscenely and/or rudely to \$87(2)(5)
•	Allegation G- Discourtesy: On May 15, 2011, in front of \$87(2)(b) in the Bronx, officers spoke obscenely and/or rudely to \$87(2)(b) \$87(2)(g)
•	Allegation H- Abuse of Authority: On May 25, 2011, in a \$87(2)(b) in the Bronx, Officer Ahsan Zafar questioned individuals. \$87(2)(g)
	diation was offered and accepted by \$87(2)(b) and \$87(2)(b) An investigation into the ident commenced after two of the subject officers could not be identified.

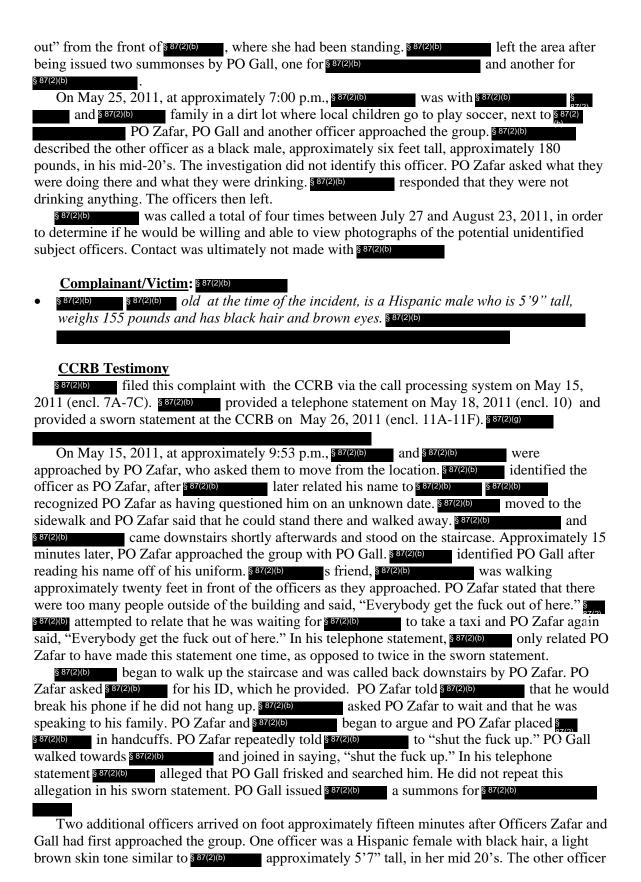
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Results of Investigation

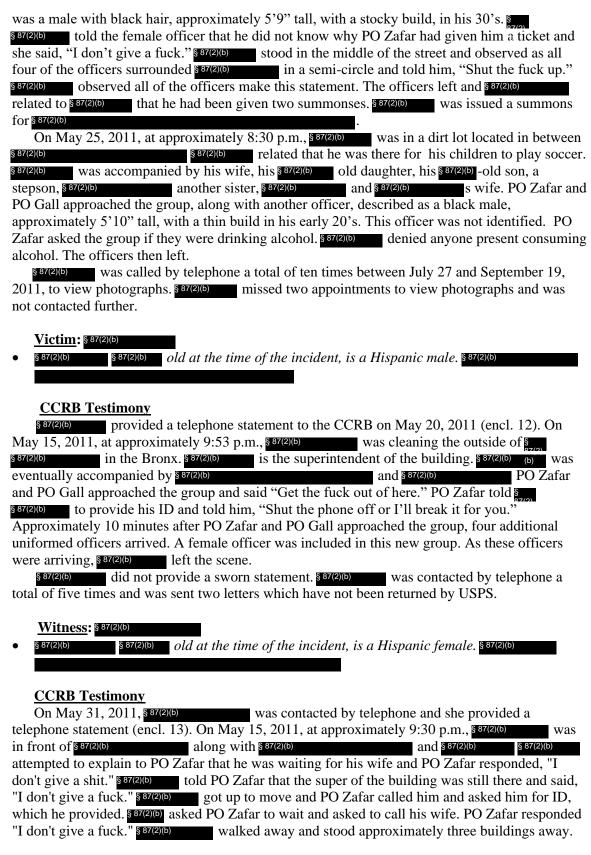
Civilian Statements



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PO Gall told 887(2)(b) to come towards him and 987(2)(b) gave him his ID. Approximately five minutes after PO Zafar and PO Gall approached, an additional four officers arrived. 887(2)(b) left the scene after the officers left.

Attempts to Contact Civilians

was contacted by telephone a total of 5 times between June 2 and June 9, 2011. His address was not obtained. The undersigned investigator spoke with an aunt of \$87(2)(b) who agreed to have him call the undersigned. \$87(2)(b) has not contacted the CCRB as of the date this was written.

NYPD Statements:

Subject Officer: PO KEVIN GALL

- PO Gall, [887(2)(5)] old at the time of the incident, is a white male who is 5'11" tall, weighs 160 pounds and has red hair and brown eyes.
- On May 15, 2011, PO Gall was assigned to Impact Post 21 in uniform from the hours of 5:30 p.m. to 2:05 a.m. PO Gall was partnered with PO Ahsan Zafar and worked on foot.
- On May 25, 2011, PO Gall was assigned to Impact Post 21 from the hours of 5:30 p.m. to 2:05 a.m. and worked with PO Zafar.

Memo Book

- On May 15, 2011, at 9:00 p.m., PO Gall issued two summonses to \$87(2)(b) for e. He noted that he ordered \$87(2)(b) to leave multiple times and that \$87(2)(b) refused to do so and argued with PO Gall and PO Zafar. A summons was also issued to \$87(2)(b) for \$87(2)(b) (encl. 14A-14D).
- PO Gall's memo book does not have any entries directly mentioning interacting with individuals at the alleged location on May 25, 2011. At 6:30 p.m., PO Gall performed a vertical at \$87(2)(5) At 7:49 p.m., he performed a vertical at \$87(2)(5) (encl. 14E-14G).

CCRB Testimony

PO Gall was interviewed at the CCRB on October 18, 2011 (encl. 15A-15B) and on November 10, 2011 (encl. 15C-15D). On May 15, 2011, at approximately 9:00 p.m., PO Gall and PO Zafar passed a group of approximately four to six individuals in front of in the Bronx. PO Gall and PO Zafar addressed the group and told them to leave the area as soon as possible. PO Gall related that the individuals were blocking the staircase of the building. The officers passed in front of the location two more times and each time told the individuals to move from the area. The third time that the group was approached, PO Gall explained to them that they were blocking the building's staircase. PO Gall did not mention anyone attempting to enter or exit the building while the individuals were on the stairs.

Members of the group stated that they lived there and did not have to move. The individuals did not comply at any point upon being approached by the officers. Neither officer used any profanities when asking the group to move. PO Zafar did not say, "Get the fuck out of here" or "I don't give a fuck" and PO Gall did not make these statements.

PO Gall was shown a photograph of \$87(2)(b) taken at CCRB and he related that he had been at the scene. PO Gall did not recognize \$87(2)(b) from a photograph taken at CCRB. Handcuffs were placed on \$87(2)(b) after he insisted on placing his hands in both front pants pockets after both officers repeatedly told him not to. PO Gall was unsure if he or PO

Page 6 CCRB Case # 201106250 Zafar placed the handcuffs on him. No physical contact was made with prior to the handcuffs being placed on him. PO Gall could not recall if \$87(2)(6) was frisked, and denied him being searched. Neither officer told any member of the group that they would be arrested for any offense. The handcuffs were taken off of \$87(2)(6) after the stopped moving and PO Gall felt that his own safety would not be compromised. PO Gall could not recall if either individual was using a cellular phone at any point or either officer telling an individual to stop using a phone. Neither officer told any individual that they would break his phone.

Two additional impact officers arrived as backup after one of the officers called for them over the radio. PO Gall could not recall the identities or races of these officers. Descriptions were provided of the officers and PO Gall related that the female officer may have been Officers Guachichullca or Gavilanes and that the male officer may have been PO Altimirano, although he had no recollection of his being there. PO Gall was shown the roll call for the day and this did not refresh his memory as to the officers' identities. None of the officers present told anyone, "Shut the fuck up" or make a remark to the effect of "Get the fuck out" from a building entrance. All of the individuals entered the building after the summonses were issued.

PO Gall had no independent recollection of the alleged incident on May 25, 2011. PO Gall related that he was familiar with a dirt lot being located \$87(2)(6)

It was related to him that there was a large group of Hispanic individuals with small children and that PO Zafar would have been present along with a black officer around 6 feet tall in his 20's. PO Gall recalled working with PO Zafar, but could not recall who else was present. He was unaware of PO Zafar having questioned any individual or if he did so.

Subject Officer: PO AHSAN ZAFAR

- PO Zafar, \$87(2)(5) old at the time of the incident, is an Asian male who is 5'9" tall, weighs 180 pounds and has black hair and brown eyes.
- On May 15, 2011, PO Zafar was assigned to Impact Post 21A in uniform from the hours of 5:30 p.m. to 2:05 a.m. PO Zafar was partnered with PO Kevin Gall and worked on foot.
- On May 25, 2011, PO Zafar was assigned to Impact Post 21 in uniform from the hours of 5:30 p.m. to 2:05 a.m. He was partnered with PO Gall. He was not assigned to a motor vehicle.

Memo Book

- On May 15, 2011, at 10:00 p.m., two males were stopped in front of [887(2)(b)] Impact Post 21 issued three C-Summonses. (encl. 16A-16C).
- PO Zafar does not have any memo book entries directly mentioning interacting with individuals at the alleged location on May 25, 2011. At 6:36 p.m., PO Zafar performed a vertical at §87(2)(b) (encl. 16D-16F)

CCRB Testimony

PO Zafar was interviewed at the CCRB on October 28, 2011 (encl. 17A-17C). PO Zafar could not recall if he had approached the group more than once on May 15, 2011. PO Zafar did not use profanity when telling the group to disperse and did not say, "Get the fuck out of here." He did not hear any officer make this statement. All of the members of the group moved from the location except for two males who stated that they did not want to move and that they lived in the building. No officer said, "I don't give a fuck." Both males were asked for their IDs and refused to provide his ID. For it is provided his ID upon being told by PO Zafar that he would be placed under arrest for obstruction of governmental administration if he refused to comply.

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PO Zafar could not recall if either individual used a cellular phone and refused to hang up a call. PO Zafar did not tell either individual that he would break their phone and did not hear any officer say this. [597(2)(5)] repeatedly placed his hands in his pockets. [597(2)(5)] took his hands out of his pockets each time that he was instructed to do so by PO Zafar, but would place his hands back inside shortly afterwards. PO Zafar told him numerous times to take his hands out of his pockets. PO Zafar placed him in handcuffs and frisked his side pants pockets to ensure that he did not have weapons due to the fact that he refused to take his hands out of his pockets and was turning his body. He did not search his pockets. No other officer frisked or searched [57(2)(5)]

Two other officers from the command responded to the scene. PO Zafar could not recall their identities, any pedigree information or if they arrived in a vehicle. Descriptions of the officers were provided to PO Zafar and he related that the female officer may have been Officers Morales or Gavilanes. PO Zafar was unsure of the male officer's identity. PO Zafar was shown the roll call for the date but was unable to recall if any of the officers listed responded to the location. The responding officers stood behind POs Zafar and Gall and did not interact with verbally. No officer present said, "Shut the fuck up." No officer told one of the individuals to tell a female to "Get the fuck out" from the front of a building entrance or anything to this effect. The males were allowed to leave after being issued summonses.

PO Zafar was unfamiliar with any incident occurring on May 25, 2011, at approximately 8:35 p.m. in between \$87(2)(b) PO Zafar was unfamiliar with any dirt lot at that location. PO Zafar could not recall any incident at the location involving \$87(2)(b) or \$27(2)(b) PO Zafar could not recall any officers approaching and questioning individuals as to why they were at the location.

NYPD Documents

SPRINT and Communications CD: Report N14347

On May 15, 2011, at 9:57 p.m., foot post 21 notes two males being stopped. At 10:00 p.m., a warrant check is performed. At 10:14 p.m., three summonses are served (encl. 18A-18B).

Roll Call

The roll call showed that the following officers who are Hispanic females in their 20's were working impact duty on May 15, 2011: PO Vivian Gavilanes, PO Veronica Guachichullca, PO Yesenia Velazquez, PO Ana Morales and PO Cecilia Pena. The roll call showed the following white male officers assigned to impact: PO Kevin Critelli, PO Theo Roussos, PO Scott Berger, PO Roberto Coduri, PO Christopher Giancontieri, PO Robert Travis, PO Roman Iskhakov and PO Daniel Barkas (19A-19B).

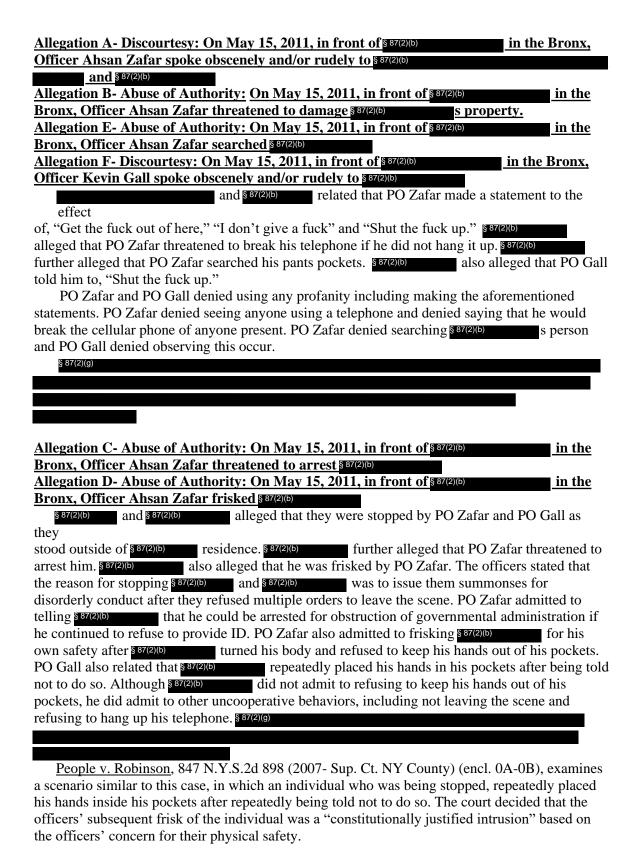
Officer Photographs

Photographs were requested for all of the female officers assigned to impact as well as all of white male officers assigned to impact (encl. 20A-20M).

Summonses \$ 87(2)(b) was issued Summons # \$ 87(2)(b) for \$ 87(2)(b) and Summons # \$ 87(2)(b) for fa 87(2)(b) (encl. 21). [\$ 87(2)(b)] [\$ 88(1)

§	87(2)(b) was issued summons number \$ 87(2)(b) for \$ 87(2)(b) . [§ 87(2)(b)] [§ 86(1)(3)&(4)] [§ 87(2)(c)]
•]	Status of Civil Proceedings Neither § 87(2)(b) and the City of New York as of January 30, 2011 (encl. 24).
_	Civilians Criminal History \$ 87(2)(b)] [§\$ 86(1)(3)&(4)] [\$ 87(2)(c)]
• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
• [Civilians CCRB History This is the first CCRB complaint involving \$87(2)(b) or \$87(2)(b) (encl. 3-6).
•]	Subject Officers CCRB History PO Zafar has been a member of the service for one year and there are no substantiated allegations against him (encl. 1). PO Gall has been a member of the service for one year and there are no substantiated allegations against him (encl. 2).
	<u>Conclusion</u>
s 87(2)(name com	and \$37(2)(b) and both identified PO Zafar by name. \$37(2)(b) identified PO Gall by e. Both officers acknowledged interacting with both individuals. According to the plainants, two officers who were on foot told \$37(2)(b) to "Shut the fuck up." Attempts a made to identify these officers by narrowing down their identities using the roll call. Impts to schedule the complainants to view single photographs were also unsuccessful.
	gations Not Pleaded
§ 87(2)(9)

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ay 15 2011 in front of \$870	officers spoke
ay 13, 2011, in 11 ont of 5115	officers spoke
	ot told him to, "Shut the fuck up."
ntify which officers would h	ave been the ones to respond to
0.35.05.0044	
	d individuals
	roup that they were in if they had
•	interacting with anyone at this
§ 87(2)(b)	
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Print	Date
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	e: On May 25, 2011, \$87(2)(b) cer Ahsan Zafar questione O Zafar questioned a large g fficer had any recollection of \$87(2)(b) Bernardo Gutierrez Print Print Print